

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Sections 163 and 164  
Title 14, California Code of Regulations  
Re: Harvest of Herring and Harvest of Herring Eggs

- |     |  |                   |
|-----|--|-------------------|
| I.  | Date of Initial Statement of Reasons:      | May 24, 2006      |
| II. | Dates and Locations of Scheduled Hearings: |                   |
| (a) | Notice Hearing:                            |                   |
|     | Date:                                      | June 23, 2006     |
|     | Location:                                  | Mammoth Lakes, CA |
| (b) | Discussion Hearing:                        |                   |
|     | Date:                                      | August 4, 2006    |
|     | Location:                                  | Sacramento, CA    |
| (c) | Adoption Hearing:                          |                   |
|     | Date:                                      | August 25, 2006   |
|     | Location:                                  | Santa Barbara, CA |

- ### III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Under existing law, herring and herring eggs may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission (Commission) shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; landing and monitoring requirements; permit categories and conditions; royalty fees; permit performance deposit requirements; fishing and harvesting restrictions; processing requirements and permit suspension conditions and procedures.

The proposed regulations would establish fishing quotas, set the minimum mesh size for Tomales Bay, establish season dates and times that fishing operations are allowed, reduce vessel signage needed, specify issuance of permits by first class mail, modify several sections to correspond with Section 163.1, and correct the Herring Eggs on Kelp Permit Application number to correspond with the 2006-07 season application.

Annual management recommendations, to improve or provide for the efficient harvest and orderly conduct of the herring fishery, are solicited from interested fishermen and individuals at public meetings and from the Director's Herring Advisory Committee (DHAC), which is composed of various representatives from the commercial herring fishing industry. The proposed amendments to Sections 163 and 164, Title 14, California Code of Regulations (CCR), reflect, in part, Department recommendations presented to the Director's Herring Advisory Committee. The Department prepared a Supplemental Environmental Document, pursuant to the requirements of the California Environmental Quality Act. This Environmental Document will be released for public review in late June 2006. Certification of the Environmental Document is scheduled to occur at the August 25, 2006 Commission meeting in Santa Barbara, California.

### **BACKGROUND**

Pacific herring occur in four primary spawning areas of California, in San Francisco Bay, Tomales Bay, Humboldt Bay, and Crescent City Harbor. The Department manages these populations as separate stocks. The commercial herring fisheries on these stocks are closely regulated through a catch quota system to provide for adequate protection and utilization of the herring resource. The Department conducts annual assessments of the size (spawning biomass) of the spawning populations of herring in San Francisco and Tomales bays. In addition to the assessment of spawning biomass, the Department examines the age structure of the spawning population, growth and general condition, biological aspects of the catch, and environmental conditions. These data serve as the basis for establishing fishing quotas for the next successive season.

### **FISHING QUOTAS**

Annual fishing quotas are conservatively set and have been limited to a total commercial catch of not more than 20 percent (harvest percentage) of the spawning biomass, to ensure adequate protection for the herring resource and provide for the long-term yield of the fishery. In practice, the harvest percentage has typically been set between 10 and 15 percent of the previous season's spawning biomass estimate. Harvest percentages are not determined by a fixed mathematical formula, rather, they are modified based on additional biological data collected each season, such as oceanic conditions, growth rates of herring, strength of individual year-classes, and predicted size of incoming year-classes (*i.e.*, recruitment). In response to poor recruitment, or indication of population stress, and/or unfavorable oceanographic conditions, harvest percentages are set below 15 percent. For example, the harvest percentage for the 1992-93, 1993-94, 1994-95, 1997-98, 2000-01, 2001-02, 2002-03, 2004-05 and 2005-06 fishing seasons in San Francisco Bay was set at 12, 10, 12, 12, 10, 12, 10, 10 and 7.6 percent, respectively.

### **San Francisco Bay**

The 2005-06 spawning biomass estimate for San Francisco Bay is 145,054 tons (including catch), which is above the 27-year average of 55,278 tons. Since the

2002-03 season, the Department has expressed concern regarding the health, specifically the age structure, of the San Francisco Bay herring population. The large spawning biomass estimate helps to alleviate some of the concern regarding the overall size of the population. However, since the 1997-98 El Niño, the percentages of age 4 and older herring which support the fishery has remained at low levels, and has indicated a truncated age structure. Since the 1982-83 season, 32.4 percent of the stock has been composed of age 4 and older herring. The 2005-06 preliminary estimate continues to show that the percentage of age 4 and older fish (27.4 percent) remains below average; however, the data also suggests that the stock is showing some improvement in its age structure. While the percentage of age 4 and older fish is still below average, this season marks the third consecutive season that the percentage of age 4 and older herring has increased. Age 7 and older fish continue to be absent from the population. The record high preliminary estimated number of herring this season indicates that the population is potentially rebuilding.

Three options are provided for the San Francisco Bay quota. San Francisco Bay Quota Option 1 would set the quota at 14,505 tons which represents 10 percent of the 2005-06 spawning biomass estimate. San Francisco Bay Quota Option 2 would set the quota at 13,171 tons which represents a reduction in the quota at ten percent by the percentage of 3-year old fish (9.2 percent) estimated to comprise the 2005-06 commercial landings. This quota represents 9.1 percent of the spawning biomass estimate. San Francisco Bay Quota Option 3 would set the quota at 4,502 tons which represents 7.6 percent of the 2004-05 spawning biomass estimate.

#### San Francisco Bay Quota Option 1:

The above-average spawning biomass estimate is an encouraging sign that the population may be rebuilding. A harvest percentage of 10 percent follows the practice the Department has used for several of the past seasons (see Fishing Quotas above) of setting the quota between 10 and 15 percent of the spawning biomass.

#### San Francisco Bay Quota Option 2:

The quota at 10 percent of spawning biomass (14,505 tons) would be reduced by the percentage of 3-year old herring estimated to comprise the 2005-06 season landings (9.2 percent). No 2-year old fish were landed during the 2005-06 season; therefore, the percentage is based on the percentage of 3-year old fish only. The estimated percentage of 2- and 3-year old herring is suggested as an approximation of the percentage that may be caught in the 2006-07 season while using a minimum mesh size of 2 inches. This results in a quota of 13,171 tons or 9.1 percent of the 2005-06 estimated spawning biomass.

### San Francisco Bay Quota Option 3:

A quota of 4,502 tons for San Francisco Bay represents 7.6 percent of the 2004-05 season spawning biomass estimate, and 3.1 percent of the 2005-06 spawning biomass estimate. The rationale for providing this quota option is predominantly economical. A quota of 4,502 tons will provide a viable quota for the San Francisco Bay fishery. The DHAC on their April 18, 2006 conference call voted to recommend a 4,502 ton quota option for economic reasons. The DHAC felt that a quota upwards of 14,000 tons would be unobtainable by the number of participants in the present fishery and that a smaller quota would allow all three groups, or platoons, an opportunity to reach their respective quotas. This decision was thought to be fair and better economically for all groups. However, the DHAC strongly feels that the 10 to 15 percent harvest percentage has served the resource and the fishery well in the past, and would prefer to keep that harvest percentage in the future.

In addition, there is a biological component for the quota to remain at 4,502 tons. Approximately 85 percent of the spawning activity for the 2005-06 occurred in Richardson Bay on *Gracilaria sp.*, a genus of red algae. Herring spawning activity routinely occurs in Richardson Bay on *Zostera marina* (Eelgrass) and *Gracilaria sp.*; however, during the 2005-06 season spawning occurred over a much larger area in Richardson Bay and *Gracilaria sp.* was found at a greater density than in past seasons. The relatively high spawning biomass estimate can potentially be attributed to the greater density of *Gracilaria sp.*, as well as the larger spawning area compared to previous seasons. Because ten percent of the spawning biomass estimate would provide for a substantially higher quota than the Department has proposed for the past several seasons, the Department is proposing in Option 3 that the quota remain status quo for the 2006-07 season so that the Department may further assess the impact of the observed *Gracilaria sp.* density on calculating the spawning biomass estimate.

Within the overall quota for San Francisco Bay, separate quotas are established for each gill net platoon (i.e., December ("DH"), Odd, and Even fishing groups). The overall quota is divided among the three platoons in proportion to the number of permits assigned to each platoon. Slight annual adjustments in the quota assignments for each fishing group are needed to account for attrition of permittees and the use of herring permits in the herring eggs on kelp (HEOK) fishery. Herring eggs on kelp fishing occurs only in San Francisco Bay and the fishery is regulated under Section 164, Title 14, CCR. Individual HEOK quotas will depend on the total herring fishery quota for San Francisco Bay established by the Fish and Game Commission under Section 163, Title 14, CCR. In 1994, the Commission decided to provide HEOK permittees possessing "CH" permits with a HEOK quota equal to approximately 0.79 percent of the overall quota.

All HEOK permittees must hold a herring permit. To fish HEOK, a herring permittee must waive his or her herring fishing privileges under Section 163 and "exchange" his or her "share" of the herring quota for an equivalent HEOK quota. The current

factor used to convert an equivalent amount of resource from the sac roe fishery to the herring eggs on kelp fishery is 0.2237.

If the Commission were to adopt San Francisco Bay Quota Option 1, a 14,505-ton quota, this would result in a 25.6-ton individual quota for a “CH” gill net permittee and a 7.7-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery. If the Commission were to adopt Quota Option 2, a 13,171-ton quota, this would result in a 23.2-ton individual quota for a “CH” gill net permittee and 7.0-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery. If the Commission were to adopt San Francisco Bay Quota Option 3, a 4,502-ton quota, this would result in a 7.9-ton individual quota for a “CH” gill net permittee and a 2.3-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.

### **Tomales Bay**

In Tomales Bay, the 2005-06 spawning biomass estimate is 2,033 tons, which is a 45 percent decrease from the 2004-05 biomass estimate of 3,686 tons, and 48 percent less than the 14-season average of 3,889 tons (average is based on seasons since the fishery re-opened in 1992). The below-average spawning biomass estimate for the 2005-06 season could potentially be an effect of two separate anomalous events that created unfavorable environmental conditions. The first, an unusual warm water event off of northern California, Oregon, and Washington occurred last spring and summer. This event was not considered an El Niño, but it reduced upwelling in the nearshore environment, which may have created unfavorable oceanic conditions for herring resulting in higher mortality or displacement of herring in the Tomales Bay population. Second, the extraordinary amount of rainfall this season greatly increased the freshwater inflow to Tomales Bay which reduced salinities in the bay, leading to poor spawning conditions and displacement of spawning herring to areas with more favorable conditions. There is a predicted continuation of a weak La Niña, i.e., cool-water event which often is considered to be beneficial for a cold-water species like herring. As the oceanic conditions improve, there is the potential for a greater return of herring to Tomales Bay next season.

During the 2005-06 season, the commercial gill net catch for the Tomales Bay herring fishery was below the Department's established initial quota of 400 tons. Spawn escapement did not reach 4,000 tons prior to February 15 and consequently, there was no quota increase to the maximum of 500 tons. The Department's goal is to set the Tomales Bay initial quotas at less than the 20 percent maximum harvest percentage suggested in the Final Environmental Document for Pacific Herring Commercial Fishing Regulations 1998. The initial quota for Tomales Bay is set at a conservative level with an existing regulatory provision to increase the quota based on in-season spawning assessments conducted by the Department. The exploitation rate for this fishery has averaged 5.3 percent and has only exceeded 10 percent twice since the 1992-93 season,

in the 1995-96 and 1996-97 seasons at 17 percent and 14.7 percent respectively. The exploitation rate for this past season was less than one percent.

Subsection 163(g)(3)(A) specifies that the initial quota for Tomales Bay shall not exceed 400 tons. For the 2006-07 season, the Department proposes to set the Tomales Bay catch quota at 350 tons, which is 17 percent of the 2005-06 estimated spawning biomass of 2,033 tons. The Department is proposing a set quota for Tomales Bay and to discontinue the allowance of an in-season quota increase based on the spawning escapement level. The Department's management strategy is to set the catch quota at 350 tons for the 2006-07 season and subsequent seasons. The shift to a fixed set quota for Tomales Bay would allow the Department to manage the herring fishery in a more cost-effective way similar to the Humboldt Bay and Crescent City Harbor herring fisheries. Managing the Tomales Bay fishery on a real-time basis is no longer feasible due to costs. The Department has decided to set a conservative fixed catch quota based upon data collected over 34 seasons of managing the Tomales Bay herring fishery, rather than attempt to set catch quotas seasonally considering the possibility of inadequate data in the future. Based upon the historical data, it is apparent that the Tomales Bay herring population is both dynamic and resilient. The data also suggests that ecological conditions play a far greater role in the fluctuation of the Tomales Bay population than the harvest by the commercial fishery. A quota of 350 tons is a conservative quota that would help ensure Department goals are maintained, and the Tomales Bay herring population remains healthy, and provides for a viable quota for the commercial fishery. It represents an exploitation rate of 9 percent of the average spawning biomass since the fishery was re-opened in the 1992-93 season; the actual exploitation rate for this fishery over the same period averaged 5.3 percent.

Subsection (f)(2)(B) of Section 163 provides for the experimental use of a gill net mesh size of no less than 2 inches and no greater than 2-1/2 inches for the 2005-06 roe herring fishery season only in Tomales Bay. This was the sixth consecutive season that the experimental mesh size was used. The experimental use of a minimum mesh size of 2 inches in the Tomales Bay gill net fishery allowed the Department to continue to: (1) evaluate the use of this mesh size on the size and age composition of the current population; and (2) assess whether increased catch per unit effort (CPUE) could be obtained for the catch and still maintain the Department's management goal of a conservative exploitation rate. The current regulation specifies that the mesh size shall revert to no less than 2-1/8 inches or greater than 2-1/2 inches after the 2005-06 season, unless otherwise designated herein. Based on the data collected from the 2-inch experimental mesh study, the Department has determined that the use of 2-inch mesh gill nets has minimal effects on the Tomales Bay herring population and its continued use is consistent with the Department goal of a conservative

exploitation rate. Therefore, the Department is proposing that the mesh size in Tomales Bay be set at a minimum of 2 inches and a maximum of 2-1/2 inches.

### **Humboldt Bay and Crescent City Harbor**

No changes to the regulations are proposed for Humboldt Bay or Crescent City Harbor herring fisheries including quotas and season dates.

### **SEASON DATES AND FISHING TIMES**

Season opening and closing dates for San Francisco and Tomales bays, as well as the dates of various provisions of the regulations, are adjusted each year to account for annual changes in the calendar. The consensus of the DHAC, which met on April 4, 2006, was to recommend that the dates of the roe herring fisheries in San Francisco Bay be set from 5 p.m. on Sunday, December 3, 2006, until noon on Friday, December 22, 2006 ("DH" gill net platoon only).

Recommended dates for the odd and even platoons are from 5:00 p.m. on Tuesday, January 2, 2007, until noon on Friday, March 9, 2007. The consensus among Tomales Bay permittees was to recommend opening at noon on Tuesday, December 26, 2006, until noon on Wednesday, February 28, 2007.

### **ISSUANCE OF PERMITS**

Sections 163 and 164 specify that permit applications, transfer fees and authorized agent forms are to be submitted to the Department's San Francisco Bay Area Marine Region office. The Department is proposing that references to submitting these documents be amended to direct their submission to the License and Revenue Branch, Sacramento.

Subsection (c)(1) specifies that the Department will send issued permits by certified mail, return receipt requested, to the permittees. The Department is proposing that this language be modified to read that permits will be mailed first class to the permittees. The cost of mailing the herring permits through certified mail has become economically prohibitive for the Department.

### **MAXIMUM NUMBER OF PERMITS IN SAN FRANCISCO BAY**

Subsection (c)(1) of Section 163 specifies the maximum number of permits, or threshold, in each fishing area. The number of permits must fall below this maximum number before any new permits shall be issued. The DHAC is proposing that a reduction in the threshold at which the Department must issue new herring gillnet permits, from 348 (116 DH and 232 Odd and Even) to 240. The DHAC feels that there are currently a lot of un-used and un-wanted herring permits, ( e.g. 29 were not renewed and reverted back to the state this year), and that this is due to a steep and prolonged economic decline along with changes in cultural and demographic practices in Japan. The Japanese market is the only market for San Francisco Bay herring. In 1997, the price of herring peaked at \$2,300 a ton and in the following years it dropped to \$500 a ton, and declined further in 2006 to \$400 a ton. The DHAC has expressed that many permit

holders only hold the permit and are either without boats and/or without the intention of ever participating directly in the fishery (i.e., they find temporary substitutes to fish their permit). The DHAC feels that a low number of active participants and a high number of individuals finding a temporary substitute is no longer a viable way to operate the fishery. The proposed number of 240 permits, 80 permits for the DH platoon and 160 for odd and even platoons, is derived from the necessity of 40 boats to operate six permits per boat. The DHAC feels that the fishery has evolved into one net per permit, two nets per boat in each platoon, and three platoons fished per season fishery.

### **VESSEL IDENTIFICATION**

Subsection (d) of Section 163 specifies the signage required for a vessel engaged in taking herring. The DHAC, during their April 4, 2006 meeting, proposed that the language specifying an additional sign on the top of the vessel house be removed to facilitate ease of switching signage each week when alternating fishing groups. This proposal would remove the phrase, "and on top of the house" from subsection (d), and instead allow signage on the side of the house to be placed as to be seen from the air.

### **CHANGES FOR CLARITY OR CONSISTENCY**

Section 163.1 of Title 14, CCR, was added in March 2006 to specify qualifications for permit transfer and ownership of multiple permits in the commercial herring fishery in San Francisco Bay. The Department is proposing to amend or remove language in several subsections from Section 163 which are in direct conflict with Section 163.1. Specifically, (1) subsection (a)(5) states that lists of crewmembers have to be submitted; and (2) subsection (b)(1) specifies that no person shall submit more than one application per season which is in direct conflict with subsection (b)(1) of Section 163.1, therefore, the Department proposes to remove this language. Subsection (c)(1)(D) defines the conditions for preferential status, or criteria, for applications in a herring permit lottery. These criteria describe a point system which is no longer in use and the Department is proposing to remove this language and all reference to the point system. Subsection (e)(2) identifies when crew lists must be filed with the Department. The Department proposes to amend this section since crew lists are no longer required.

Corrections to the Herring Eggs on Kelp Permit Application number in subsection 164(h)(1) are proposed to coincide with the 2006-07 season application.

- (b) Authority and Reference Sections from the Fish and Game Code for Regulation:

Authority: Sections 1050, 5510, 8550, 8553 and 8555, Fish and Game Code.  
References: Sections 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.



(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

- (1) Informational Summary Packet for herring fisheries in (a) San Francisco Bay; (b) Tomales Bay; (c) Humboldt Bay, Crescent City Harbor.
- (2) Meeting Notes, Director's Herring Advisory Committee Meeting, April 4, 2006, Redwood City, California.
- (3) Meeting Notes, Director's Herring Advisory Committee Conference Call, April 18, 2006.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

- (1) Herring Town Hall Meeting, February 24, 2006, Sausalito, California.
- (a) Director's Herring Advisory Committee Meeting, April 4, 2006, Redwood City, California.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: No alternatives were identified.
- (b) No Change Alternative:  
A no change alternative would provide a quota for the 2006-07 fishing season of 4,502 tons.
- (c) Consideration of Alternatives:  
In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons in the long run than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

See Draft Supplemental Environmental Document – Pacific Herring Commercial Fishing Regulations.

## VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Overall the proposed 2006-07 regulations would benefit California's commercial herring fishermen and herring processing plants, all of which are small businesses as defined under Government Code Section 11342.610. Depending on which option the Fish and Game Commission (Commission) selects, net benefits would accrue to the San Francisco Bay herring fishery in the form of potential increased catches, revenues, and related economic activity. Harvest quotas for San Francisco Bay herring fishermen could be increased from 4,502 tons to 14,505 tons (Option 1), from 4,502 to 13,171 tons (Option 2), or remain status quo at 4,502 tons (Option 3).

Option 1 includes a proposed quota of 14,505 tons for San Francisco Bay in 2006-07, and represents potential ex-vessel revenues of as much as \$8,122,800 in the San Francisco Bay herring fishery, which consists of approximately 348 herring fishermen. Relative to the 2005-06 quota of 4,502 tons, this represents a potential revenue increase of \$5,601,680. This increased revenue projection is based on average price data from the 2005-06 season, assuming that the entire San Francisco quota is harvested in each year ( $\$8,122,800_{2006-07} - \$2,521,120_{2005-06} = \$5,601,680$ , presented in year 2005 dollars). Additionally, the Tomales Bay quota is proposed to be 350 tons, down from last season's 400 ton quota. While this reduction might appear to be a potential revenue loss of \$26,600 to the fishermen, historical landings on average are well below the proposed 350 ton quota. Only 18.5 tons of the Tomales Bay quota was landed in 2005-06, well below the 400 ton to 500 ton quota that was available. Over the last 10 seasonal quotas set for Tomales Bay, the landings only averaged 172.2 tons and never exceeded 356 tons for any one season. Thus no revenue losses are anticipated from the proposed 350 ton quota. The 2006-07 Humboldt Bay and Crescent City Harbor herring fishery quotas remain the same as for the 2005-06. Thus the increase in potential ex-vessel revenue from all herring quotas, for all 348 herring fishermen, could be \$5,575,080 to \$5,601,680 under the proposed 2006-07 regulation. Using a regional output multiplier of 1.8478 and projected increases in ex-vessel revenues of \$5,575,080 to \$5,601,680, the increase in economic contribution of the 2006-07 herring fishery could be as much as \$10,301,684 to \$10,350,836 in year 2005 dollars.

Option 2 has a proposed quota of 13,171 tons for San Francisco Bay in 2006-07, and represents potential increases in ex-vessel revenues of as much as \$4,828,040 to \$4,854,640 in the herring fishery of 348 fishermen. This increased revenue projection is based on average price data from the 2005-06 season, assuming that the entire San Francisco quota is harvested in each year ( $\$7,375,760$  2006-07 -  $\$2,521,120$  2005-06 =  $\$4,854,640$  in year 2005 dollars). As in the above option, the Tomales Bay quota is proposed to be 350 tons. The 2006-07 Humboldt Bay and Crescent City Harbor herring fishery quotas remain the same as for the 2004-05. Thus the potential increase in ex-vessel revenue from all herring quotas, for all 348 herring fishermen, could be as much as \$4,828,040 to \$4,854,640 (in year 2005 dollars) under the proposed Option 2. Using a statewide output multiplier of 1.8478 and the projected ex-vessel revenue increases of \$4,854,640 the increase in economic contribution of the 2006-07 herring fishery could be as much as \$8,970,448 in year 2005 dollars. (This is calculated by taking the projected ex-vessel revenues and multiplying by a statewide demand output multiplier of 1.8748 times  $\$4,854,640 = \$8,970,448$ ).

Option 3 has a proposed quota of 4,502 tons for San Francisco Bay, 350 tons for Tomales Bay, status quo for Humboldt Bay and Crescent City Harbor in 2006-07. Based on historic landings in the respective areas, and the information presented in Option 1 for Tomales Bay, we do not expect any adverse economic impacts associated with Option 3.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

## INFORMATIVE DIGEST\POLICY STATEMENT OVERVIEW

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish fishing quotas, set the minimum mesh size in Tomales Bay, establish season dates and times that fishing operations are allowed, specify issuance of permits by first-class mail, modify the maximum number of permits in San Francisco Bay before being re-issued, modify the requirements for vessel identification on the vessel house and modify Section 163 for consistency with Section 163.1.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, California Code of Regulations (CCR):

The proposed regulations would establish fishing quotas by area for the 2006-07 herring fishing season, based on the most recent assessments of the spawning populations of herring in San Francisco and Tomales bays. Three options are provided for the San Francisco Bay quota. San Francisco Bay Quota Option 1 would set the quota at 14,505 tons which represents 10 percent of the 2005-06 spawning biomass estimate. If the Commission were to adopt San Francisco Bay Quota Option 1, a 14,505-ton quota, this would result in a 25.6-ton individual quota for a "CH" gill net permittee and a 7.7-ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery. San Francisco Bay Quota Option 2 would set the quota at 13,171 tons which represents a reduction in the quota at ten percent by the percentage of three-year old fish (9.2 percent) estimated to comprise the 2005-06 commercial landings. This quota represents 9.1 percent of the spawning biomass estimate. If the Commission were to adopt Quota Option 2, a 13,171-ton quota, this would result in a 23.2-ton individual quota for a "CH" gill net permittee and 7.0-ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery. San Francisco Bay Quota Option 3 would set the quota at 4,502 tons which represents 7.6 percent of the 2004-05 spawning biomass estimate. If the Commission were to adopt San Francisco Bay Quota Option 3, a 4,502-ton quota, this would result in a 7.9-ton individual quota for a "CH" gill net permittee and a 2.3-ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery.

- A set fishing quota of 350 tons (seventeen percent of the 2005-06 spawning biomass estimate of 3,686 tons) is proposed for Tomales Bay, with no provisions to increase the quota in-season.
- The proposed amendment specifies that the length of the meshes of any gill net used or possessed in the roe fishery in Tomales Bay, shall be no less than 2 inches or greater than 2-1/2 inches. This proposal finalizes the study to evaluate the effect of reduced mesh size on the length and age composition of herring caught in 2-inch mesh gill nets in Tomales Bay.
- The proposed regulations would set the dates of the roe herring fisheries in San Francisco Bay from 5 p.m. on Sunday, December 3, 2006, until noon on Friday, December 22, 2006 ("DH" gill net platoon only), and from 5:00 p.m. on Tuesday, January 2, 2007, until noon on Friday, March 9, 2007, for the odd and even platoons.
- The proposed regulations would set the dates of the roe herring fisheries in Tomales Bay from noon on Tuesday, December 26, 2006, until noon on Wednesday, February 28, 2007.
- The proposed amendment would specify that all herring permit applications, transfer fees, authorized agent requests and fresh fish permit applications be sent to the License and Revenue Branch in Sacramento, California, and would modify the regulations to provide that the Department mail permits via first-class mail not certified mail.
- The proposed amendment would specify 80 permits would be the threshold for re-issuing DH permits for the DH platoon and 160 permits would be the threshold for re-issuing permits for the odd and even platoons in the San Francisco Bay roe herring fishery.
- The proposed amendment would modify the regulations to allow vessel identification signage on the side of the house to be seen from air and eliminate the signage on the top of the wheel house.
- The proposed regulations would modify subsections (a)(5), (b)(1), (c)(1)(D), and (e)(2) of Section 163 regarding crew lists, multiple permit ownership, lottery qualification criteria and gill net vessel fishing for consistency with Section 163.1.

- The proposed regulations would correct the Herring Eggs on Kelp Permit Application number in subsection 164 (h)(1) to coincide with the 2006-07 season application.

Minor changes are proposed to clarify and simplify the regulations.